

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Cellular Telecommunications & Internet Association)	
Petition for Declaratory Ruling)	

Comments of TCA

I. Introduction

TCA, Inc. - Telcom Consulting Associates (“TCA”) hereby submits these comments in response to the Public Notice issued in the proceedings as captioned above.

The Cellular Telecommunications & Internet Association (“Petitioner”) request the Commission to “clarify” an implementation issue regarding telephone number portability. In the same breath, Petitioner also states that the policy behind wireline-wireless number portability is flawed and discusses its own appeal of the Commission’s previous decision regarding number portability. TCA urges the Commission to see the true intent behind the Petition and soundly and swiftly reject it.

TCA is a management consulting firm, providing financial, regulatory and marketing services for over fifty small, rural local exchange carriers (“LECs”) throughout the United States. TCA’s clients will be directly impacted by the FCC’s actions in this proceeding. These comments address the concerns of TCA’s clients.

II. CTIA's Petition is a clear attempt to have the Commission impose costly and needless regulation on the rural LEC industry.

As the Petitioner notes, it and some wireless carriers have appealed the Commission's previous Order imposing local number portability ("LNP") requirements on wireless carriers.¹ The Petitioner continues that the appeal is based on a belief "that the Commission's statements [regarding the significance of LNP to intermodal competition] are no more than unfounded speculations, without support in the record, and that intermodal competition is developing without wireless-wireline LNP."² The Petitioner maintains, however, that the issue to be resolved in the instant proceeding is one of consumer rights, specifically the right of wireline end users to port their current telephone number to a wireless carrier.³

Throughout the Petition and in statements made to the Commission, the Petitioner consistently disparages LNP. In a letter sent to Thomas Sugrue, Chief of the Wireless Telecommunications Bureau by the Petitioner, the petitioner characterizes the current wireline LNP policy as a "failure."⁴ The letter also states the Petitioner's view that "...wireline LNP has cost consumers hundreds of millions of dollars in fixed and recurring costs, but delivered very little benefit."⁵ Is the Commission truly to believe that the Petitioner only seeks to protect consumer rights through what it has identified as a "failed" policy? TCA submits that this concern for the consumer is misplaced and the true intent of this Petition is to have what the Petitioner itself terms an "enormous burden"⁶ placed onto LECs and their customers.

The Petitioner's attempt to remove the wireless industry from this regulation (and its associated costs) through the judicial system, while simultaneously imposing it upon LECs through the regulatory process, is simply a blatant attempt to gain a competitive advantage. As the Commission is well aware, wireless carriers are seeking Competitive Eligible

¹ See *Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association*, CC Docket No. 95-116, received January 23, 2003, p. 2 ("CTIA Petition").

² CTIA Petition, Footnote 4.

³ *Ibid.*

⁴ See *Written Ex Parte Presentation*, CC Docket Nos. 95-116 and 99-200, WT Docket No. 01-184, filed January 16, 2003 ("January 2003 Ex Parte").

⁵ *Ibid.*

⁶ CTIA Petition, p. 2.

Telecommunications Carrier (“CETC”) status in service areas of rural LECs.⁷ Rural LECs and state commissions across the nation consistently hear testimony from wireless carriers stating that granting CETC status will have little impact on the ILEC while providing consumers the “benefits of competition.” TCA is unaware of a single wireless provider that has identified wireless-wireline LNP as a barrier to entry or even necessary for intermodal competition.

III. Imposing LNP only upon wireline providers will further skew the regulatory environment in favor of wireless carriers.

Imposing wireline-wireless LNP only upon LECs, with no corresponding requirement upon the wireless carrier, would further tilt the competitive playing field toward wireless carriers and against rural LECs. Already, rural LECs encounter very different regulatory environments than wireless CETCs. Rural LECs must adhere to stringent quality of service rules, designed to protect consumers. Rural LECs are often considered “Carriers of Last Resort” and must provide service to all who request it.⁸ Prior to allowing a rural LEC to draw universal service support, states require **all** supported services be provided.

In state after state, rural LECs watch as state commissions and this Commission exempt wireless carriers from even minimal regulation while granting CETC status. State commissions rarely impose quality of service requirements upon wireless ETCs, leaving consumers to fend for themselves. Several states, including Colorado⁹ and Kansas,¹⁰ identify equal access as a supported service, however have exempted wireless carriers from providing this supported service on the grounds that it is “too costly” to provide. Still, the Petitioner would have this Commission impose the “costly” LNP regulation upon the LEC industry.

⁷ CETC status provides access to federal high cost support mechanisms.

⁸ Colorado rural LECs must provide service to all who request it within their certificated service area or face monetary penalties.

⁹ 4 CCR 723-2-17.1.7

¹⁰ KSA 66-1,187(p)

IV. Conclusion

The Petitioner acknowledges in the Petition that LNP is a failed policy and concurrently is seeking judicial exception from the regulation imposed by this Commission. However, the Petitioner seeks for the identical regulation to imposed solely on the LEC industry and their customers. Accordingly, the Commission should categorically reject this Petition.

Respectfully submitted,

[electronically filed]_____

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